

Q: What is an administrative penalty?

A: An administrative penalty is a civil monetary penalty in an amount not to exceed \$25,000 for a violation or deficiency constituting an immediate jeopardy to the health and safety of a patient. These penalties are assessed against general acute care hospitals, acute psychiatric hospitals and special hospitals after an investigation of a facilities non-compliance of licensure. These penalties are assessed and investigations are conducted by the California Department of Public Health (CDPH), Licensing and Certification Program (L&C)

Q: What is an immediate jeopardy?

A: An immediate jeopardy is a situation in which the hospital's noncompliance with one or more requirements of licensure has caused, or is likely to cause, serious injury or death to the patient.

Q: What types of facilities are impacted by the new laws?

A: Only general acute care hospitals; acute psychiatric hospitals; and special hospitals are impacted by these new laws.

Q: When did the CDPH receive the authority to issue administrative penalties for hospitals?

A: CDPH was granted the authority to issue administrative penalties to hospitals by Health and Safety Code Section 1280.1 (Senate Bill 1312, Statutes of 2006, Chapter 895), which was signed by Governor Arnold Schwarzenegger in 2006 and became effective on January 1, 2007.

Q: Why does it take L&C so long to issue the administrative penalties from the date of the occurrence?

A: Although L&C issued the administrative penalty a few months after the date of the event or occurrence, the immediate jeopardy was investigated and the report, with the findings of the investigation, was issued to the hospital as soon as the investigation was completed. At the time the investigative report was issued, L&C requested the facility provide a plan of correction, and the corrections are currently in place. Before the administrative penalty notice is issued, the findings are carefully reviewed to ensure that the penalty is being issued appropriately.

Q: What is the fine for an administrative penalty?

A: CDPH has authority to impose administrative penalties with a maximum fine of \$25,000 per violation that constitutes immediate jeopardy to a patient's health and safety.

Q: What will happen to the fine money? Where does it go?

A: The fines are deposited in the Licensing and Certification Program Fund established pursuant to H&S 1266.9. This is a special fund for L&C.

Q: What is the intent of an administrative penalty?

A: CDPH expects the enactment of this new statute to lead to improvements in patient safety and healthcare quality for the residents of California.

Q: Will there be an effort to measure this law's effectiveness in improving patient safety and healthcare?

A: The immediate jeopardy deficiency data will be compared to data in future years to determine if these violations or deficiencies have decreased or increased over time.

Q: Prior to administrative penalties, what enforcement actions were available to CDPH to use against hospitals out of compliance with the law?

A: The hospitals are subject to termination from the Centers for Medicare/ Medicaid (federal government) if they are not in compliance with the Conditions of Participation. The hospitals could also have their license revoked if they are not in compliance with the California Code of Regulations. Hospitals are cited for violations/deficiencies to these federal and state standards/regulations during quality of care investigations and surveys and are required to submit plans of corrections to allow them to continue to participate in federal programs and retain their licenses. These avenues for correction will continue; the only difference is that as of January 1, 2007, L&C may assess an administrative monetary penalty for these deficiencies that constitute immediate jeopardy.

Q: Who decides what hospital receives an administrative penalty?

A: The decision to issue an administrative penalty is made at the L&C District Office level by the investigating surveyor and their supervisor after review of the investigation and approval of the determination to issue the administrative penalty. These proposed/recommended penalties are sent to Office of Legal Services and the L&C

Deputy Director for approval and issuance.

Q: Does a hospital risk losing its license if it receives a certain number of administrative penalties within a certain period of time like a nursing home?

A: The determination to terminate a license is made after investigations and assessments of a facility's ability and capacity to implement plans of correction to assure the health and safety of patients is protected. The determinations also take into account the severity of the deficiencies/violations that occurred, the ability to implement corrections and their assurance, through demonstration and assessment, that such occurrences will not happen in the future.

Q: Can a hospital appeal an administrative penalty?

A: Facilities can appeal the administrative penalties by requesting a hearing within 10 calendar days of notification. If a hearing is requested, the penalties are to be paid if upheld following appeal. In addition to the penalties, the facility is required to implement a plan of correction to prevent future incidents.

Q: Can CDPH only issue an administrative penalty for immediate jeopardy?

A: As decisions are made to issue administrative penalties, press releases will be issued and the information will be posted on the L&C website.

Q: What types of violations could be classified as medication errors?

A: Medication use in hospitals is an extremely complex process involving multiple steps and multiple healthcare professionals. A medication error is any preventable event that may cause or lead to inappropriate medication use or patient harm while the medication is in the control of the health care professional, patient, or consumer. Such events may be related to professional practice, health care products, procedures, and systems, including prescribing; product labeling, packaging, and nomenclature; compounding; dispensing; distribution; administration; education; monitoring; and use. A medication error can occur during any phase of medication use.

Q: What is CDPH doing to reduce medication errors at hospitals?

A: CDPH is engaged in multiple efforts with hospitals to explore and implement medication safety strategies to reduce medication errors. Efforts include formation of a hospital task force to identify patterns or trends from survey findings so as to educate hospitals with issuance of medication safety alerts. In addition to issuing medication safety alerts, CDPH conducts provider educational programs focusing on medication

safety. CDPH is also in the process of finalizing a survey process with input from hospital partners that will monitor, by onsite inspection, the implementation of each hospital's Medication Error Reduction Plan as required by law (Health and Safety Code 1339.63).